



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Wm. J. Lawson
Secretary of State
Austin, Texas

Dear Sir:

Attention: Mr. Claude Isbell

Opinion No. 0-4520

Re: Interpretation as to the construction and application of Articles 3134 and 3141, Revised Civil Statutes, concerning representation in party state and district conventions.

You have requested the opinion of this department on the construction and application of Articles 3134 and 3141, Revised Civil Statutes of 1925, as they apply to county representation and voting strength in district and state political party conventions. Article 3134 provides as follows:

"On the first Saturday after primary election day for 1926, and each two years thereafter, there shall be held in each county a county convention of each party, to be composed of one delegate from each precinct in such county for each twenty-five votes, or a major fraction thereof, cast for the party's candidate for Governor at the last preceding election, which delegates shall be elected by the voters of each precinct on primary election day, in such manner as may be prescribed by the county executive committee at their meeting on the second Monday in June, which convention shall elect one delegate to the State and several district conventions for each three hundred votes, or a major fraction thereof, cast for the party's candidate for Governor in such county at the last preceding general election; and the delegates to said convention so elected, or such of them as may attend the said convention, shall cast the vote of the county in such conventions. Immediately

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upon the adjournment of each such county convention, the president thereof shall make out a certified list of the delegates to each of said conventions chosen by such county convention and shall sign the same, the secretary of such convention attesting his signature, and shall forward such certified list by sealed registered letter to the chairman of the State and district executive committees, who shall present the same to the respective committees at its meeting prior to the convention; and from such certified list, the respective committees shall prepare a temporary roll of those selected as delegates to such convention; provided, that no proxies shall be allowed to, or recognized in, any convention held by authority of this title, where a delegate from the county is present in the convention."

Article 3141 provides:

"Each county in the State or district convention shall be entitled to one vote for each five hundred votes, or major fraction thereof, cast for the candidate for Governor of the political party holding the convention, at the last preceding primary election. In case, at such primary election, there were cast for such candidate for Governor less than five hundred votes in any county, then all such counties shall have one vote."

We quote from your letter an example given of the practical working of these two statutes:

"As an example of the strict reading of the above articles, this situation could, and probably has arisen in many counties in Texas. A county might cast 800 votes in the general election, which under Article 3134 would entitle that county to only three delegates to the State or district convention, whereas the same county probably would poll 2000 votes at the primary election, which would entitle that same county to four convention votes, which would mean they could only have three delegates to cast the four votes which the county would be entitled to."

In 1925, the 39th Legislature reenacted both of these laws as a part of the general recodification of Texas civil

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statutes. Both now appear in Chapter 13, of Title 50, of the Revised Civil Statutes of 1925. In order to give effect to the legislative intent, we must construe the two statutes together, and give effect to both, if possible. This can be done, for Article 3134 prescribes the number of delegates to each state or district convention which the county in question is entitled to, and Article 3141 provides the number of votes to which each county is entitled in each state or district convention. Thus the number of delegates to which a county is entitled can, and usually will, differ from the number of votes to which such county is entitled.

Therefore, it is our opinion that in the case cited by you, the county would be entitled to send three delegates to the state or district convention, and the delegates present in the convention, whether three or less, would be entitled to cast their county's four votes.

Yours very truly

ATTORNEY GENERAL OF TEXAS

W. R. Allen

By

W. R. Allen
Assistant

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Gerald B. Mann

APPROVED

